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6 OCTAVIAN CRISHAN
7

FILED

2008 JUL 15 PM 2:16

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY *J* DEPUTY

8 UNITED STATES DISTRICT COURT

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10 SOUTHERN DISTRICT OF CALIFORNIA

11 '08 CV 1271 LAB JMA

12 OCTAVIAN CRISHAN,) No. _____
13 Def endant,) State Case No. CN 225221
14 vs.) State DA No. OAY937
15 PEOPLE OF THE STATE OF CALIFORNIA,) APPLICATION AND ORDER FOR
16 Plaintiff.) ISSUANCE OF A FEDERAL
17) SUBPOENA TO COMPEL
18) PRODUCTION OF DOCUMENTS
19) FROM TRIBAL ENTITIES TO BE
20) PRODUCED IN SAN DIEGO
21) COUNTY SUPERIOR COURT

22 COMES NOW Octavian Crishan, through his counsel, John Cotsirilos, who represents
23 and shows:

24 There is now on the tribal land of the tribal sovereign, known as the Rincon San Luiseno
25 band of Mission Indians and on the tribal entity of the Pauma Band of Mission Indians
26 documents that are material to the above-entitled matter which is set for jury trial on August 12,
27 2008, at 9:00 a.m., in the San Diego Superior Court, North County Division, Department 21; that
the only method to compel production of these documents located on these lands of tribal
sovereigns is to petition the federal court to issue a federal subpoena addressed to the Custodian
of Records for these documents; that tribes are immune from the enforcement of state court

1 subpoenas to compel production of documents. See, Bishop Paiute Tribe v. the County of Inyo,
2 275 F.3d 893 (2002), certiorari granted, 123 S.Ct. 618, reaffirming that tribes are immune from
3 subpoena enforcement; however, tribes are subject to the service of federal subpoenas. See, In
4 Re Long Visitor, 573 F.2d 443 (10th Cir. 1975); that California law requires utilization of a
5 federal subpoena pursuant to 28 USC § 1783 prior to a finding that a witness or documents are
6 unavailable; that California law requires utilization of a federal subpoena pursuant to 28 USC §
7 1783 prior to admission of former testimony of an absent witness; that is necessary to have said
8 documents present in court; and that in order to compel their presence is necessary that a federal
9 subpoena be issued pursuant to 28 USC § 783 commanding the Custodian of Records to appear
10 in Department 21 of the San Diego County Superior Court at Vista, located at 325 S. Melrose
11 Drive, Vista, California, or on such other dates as may be necessary, and at all other proceedings
12 incident thereto.

13 WHEREFORE, your petitioner prays for the issuance of federal subpoenas pursuant to 28
14 USC § 1783 out of and under the seal of this federal court, directed to:

- 15 1) Harrah's Rincon San Diego, 777 Harrah's Rincon Way, Valley Center, CA 92082,
16 requesting (1) all records of losses, player records, comps for Herman Wiesemeyer, DOB
17 [REDACTED]; (2) also note Mr. Wiesemeyer's Social Security Number is [REDACTED].
18 The same material regarding Allison Geller, DOB [REDACTED], and Matthew Vivian, DOB
19 [REDACTED]; Social Security Number [REDACTED].
- 20 2) To the Custodian of Records at Pala Casino Spa & Resort, 11154 Highway 76, Pala,
21 California 92059, requesting (1) all records of losses, player records, comps for Herman
22 Wiesemeyer, DOB [REDACTED]; (2) also note Mr. Wiesemeyer's Social Security Number is
23 [REDACTED]. The same material regarding Allison Geller, DOB [REDACTED]; and Matthew
24 Vivian, DOB [REDACTED]; Social Security Number [REDACTED]; and
- 25 3) To the Custodian of Records of Casino Pauma, 777 Pauma Reservation Road, Pauma
26 Valley, CA 92061, requesting (1) all records of losses, player records, comps for Herman

1 Wiesemeyer, DOB [REDACTED]; (2) also note Mr. Wiesemeyer's Social Security Number is
2 [REDACTED]. The same material regarding Allison Geller, DOB [REDACTED]; and Matthew
3 Vivian, DOB [REDACTED]; Social Security Number [REDACTED]; and commanding the
4 Custodian of Records to appear before the San Diego Superior Court or at such time
5 thereafter as may be necessary, or otherwise appropriately produce the records.

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8 DATED: June 20, 2008

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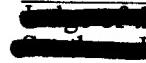

JOHN COTSIRILOS
Attorney for Octavian Crishan

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]


[REDACTED]
[REDACTED]

PROOF OF PERSONAL SERVICE

Case Name: Octavian Crishan

Case No. _ CN225221

I declare:

I am employed in the County of San Diego, California. I am over 18 years of age and not a party to the within entitled cause; my business address is 2442 Fourth Avenue, San Diego, CA 92101.

On June 24, 2008, I served the attached:

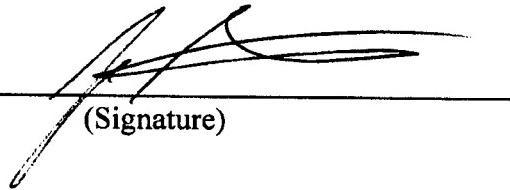
**APPLICATION AND ORDER FOR ISSUANCE OF A FEDERAL SUBPOENA TO
COMPEL PRODUCTION OF DOCUMENTS FROM TRIBAL ENTITIES TO BE
PRODUCED IN SAN DIEGO COUNTY SUPERIOR COURT**

in said cause, by delivering a true copy to:

UNITED STATES DISTRICT COURT
940 Front Street
San Diego, CA 92101

I declare under penalty of perjury the foregoing is true and correct, and this declaration was executed at San Diego, California, on June 25, 2008

JOHN COTSIRILOS
(Typed Name)


(Signature)

**UNITED STATES
DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION**

153000 - TC

**July 15, 2008
14:13:55**

Civ Fil Non-Pris
USAO #: 08CV1271
Judge..: LARRY A BURNS
Amount.: \$350.00 CK
Check#. : BC1063

Total-> \$350.00

**FROM: OCTAVARIAN CRISHAN
VS
STATE OF CA**